

MINUTES

PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING THURSDAY, MAY 18, 2006, 10:00 A.M. CITY HALL 8TH FLOOR – COMMISSION CONFERENCE ROOM

Members Present:

Peter Partington, City Engineer
Tony Irvine, City Surveyor
Mark Darmanin, Distribution and Collection Manager
Tom Terrell, Facilities Manager
James Cromar, Planner III
Robert Dunckel, Assistant City Attorney III
Carol Ingold Mordas, Parks Supervisor

Staff Present:

Victor Volpi, Senior Real Estate Officer
Eileen Furedi, Clerk II, Real Estate Department
Ed Udvardy, Assistant Public Works Director
Barbara Howell, Contracts and Special Projects Administrator

Guests Present:

Dawn Meyers
Doug Sterner
Kari Laihonon
Norma Wathey
Dwayne L. Dickerson
Mark Boyd
Ron Stohl
Ron Lux
Robert Lochrie
Steven Smith
Alan Hooper
Mario Diaz
John Amodeo

Peter Partington called the meeting at 10:10 a.m. and stated that this is a Committee with the responsibility of advising the City Commission on matters connected with City property.

ITEM ONE: APPROVAL OF APRIL 20, 2006 MINUTES

MOTION BY TONY IRVINE TO APPROVE MINUTES. SECONDED BY TOM TERRELL.

MOTION PASSED UNANIMOUSLY.

ITEM THREE: **VACATION**

Address or General Location: 2752 NE 14 Street

Victor Volpi introduced item stating that at the Property and Right-of-Way meetings on June 17, 2004 and July 15, 2004, the Committee denied the applicants request to recommend vacation of these easements, as shown on Exhibit B. He said Mr. Laihonen and the Seminole Lake Townhouse Association would like the Committee to reconsider based on the opinion of Tim Welch, Land Development Manager as stated in his letter (Exhibit B). Victor Volpi introduced Mr. Laihonen.

Mr. Laihonen clarified that the drainage easement was actually 8-foot on the east side and there was no drainage on the south side. Peter Partington asked if the request was to vacate the north 3-foot of the south 8-foot easement. Mr. Laihonen said yes. James Cromar said that the Planning and Zoning Division (P&Z) requires a 5-foot pedestrian easement around the townhouses. Tony Irvine said he was against the vacation, as a 5-foot drainage easement would not allow a sufficient amount of room for equipment to pass through.

Discussion followed as to the swale, sea wall, and pipe structures at the location, Tim Welch's letter, the possibility of the City installing drain pipes, and the possibility of the easement that runs all the way to 14 Street becoming part of an overall municipal drainage system.

Mark Darmanin said there are existing drainage lines on the street and an outfall on one property to the east. Tony Irvine said the drainage easement does not access Seminole Lake. Peter Partington said when the calculations for the drainage of the site were made in connection with the town homes, it would seem that the retention areas were calculated out as being necessary to meet City requirements for retaining the first inch of rainfall at the site, so by changing this drainage easement we would be affecting that. Peter Partington said if the system were 40 years old, he would have a different view. Mr. Laihonen pointed out Tim Welch alleged that the easement had been at the location since the 1940's - 1950's. Peter Partington said without a fairly clear need to put a structure at the location, the City should not be telling a private person that he has to keep part of his yard in a certain configuration because it is swale. Bob Dunckel said in the correspondence from Tim Welch (Exhibit B), the first paragraph states that the easement is old and new. Bob Dunckel pointed out that all the unit owners own the pedestrian easement.

Discussion followed as to the idea that the City would be tampering with an approved site plan in a micro stage in one area, and the Committee did not have enough information to determine if the easement on one property would affect the whole system.

Peter Partington said if this was a single unit, he would approve the vacation; however, there are approximately 9 units in a similar situation that could request vacations as well, reducing the retention area by 30%. Tom Terrell pointed out the location in question is part of the common area for all the unit owners. Bob Dunckel said this is part of a townhouse development and if the developer had a little bit more foresight he could have designed the development in such a way that there were one or more pools on the premises.

MOTION BY BOB DUNCKEL TO RECOMMEND VACATION OF THE NORTH 3-FOOT OF THE DRAINAGE EASMENT. SECONDED BY TONY IRVINE.

MOTION FAILED UNANIMOUSLY.

ITEM FOUR: **TEMPORARY CLOSURE OF RIGHT-OF-WAY**

Address or General Location: NW 1 Avenue, between NW 4 Street and NW 5 Street

Victor Volpi introduced item stating that Dwayne L. Dickerson would like your positive recommendation to close a portion of NW 1 Avenue between NW 4 and NW 5 Street, as shown on the Plan and Traffic Study (Exhibit C) for Alan Hooper, Developer and Chris Bellissimo, General Contractor of Foundry – Mill Ltd. Victor Volpi introduced Robert Lochrie with Ruden McClosky.

Mr. Lochrie said the development of two projects, Foundry Lofts and Mill Lofts, have recently been approved by the City Commission. Mr. Lochrie pointed out that the staging area is to the left of Foundry Lofts, and in close proximity to the project. Mr. Lochrie said there would be quite a bit of construction activity and transfer of materials during the day between the two projects and would like to close two sides of 1 Avenue to allow the equipment to go back and forth without being concerned about pedestrian safety and vehicular traffic. Mr. Lochrie said by closing these streets, businesses and residents directly to the north of Mill Lofts would be protected, there is alternative access available to all adjoining properties, a full traffic study was done around the site to demonstrate that street was not necessary to ensure safety during the construction period. Peter Partington asked if this included the road and the alley. Mr. Lochrie said yes. Peter Partington asked how long the closure would be for. Mr. Lochrie said eighteen months. Peter Partington asked if staging of materials would be in the alley or road right-of-way. Mr. Lochrie said no.

Discussion followed as to the streets that the surrounding businesses use to receive their deliveries, what type of deliveries they get, the road that is currently being built for current and future access, if closing off 1 Avenue would leave sufficient room for trucks to turn around in, and if the two-way alley would allow sufficient room for vehicles to maneuver.

Bob Dunckel stated that the City would require a temporary public right-of-way easement dedication, so the public would not be trespassing on private property.

Discussion followed as to accessing the fire hydrants, water mains, and sanitary sewers being made available day/night, keeping the gates open, using combination locks, leaving emergency contact information at the site, future street scrape improvements, the loss of parking spaces, permitting and reviews, and allowing access through the alley between Andrews Avenue and NW 1 Street.

MOTION BY TONY IRVINE TO RECOMMEND APPROVAL OF A TEMPORARY ROAD CLOSURE AT NW 1 AVENUE AND THE ALLEY, REDUCING THE TIME FRAME TO 15 MONTHS, WITH THE PROVISION THAT ACCOMMODATIONS BE MADE TO ALLOW CITY ACCESS FOR UTILITY MAINTENANCE FOR ANY UTILITIES THAT WOULD INCLUDE BUT NOT LIMIT THE CITY TO A LOCK OR COMBINATION AND/OR A CONTACT PHONE NUMBER, AND/OR NOTIFY ON-SITE SECURITY OF THE CITY'S RIGHT TO ENTER TO MAINTAIN UTILITIES, AND THAT THEY GRANT THE CITY ANY TEMPORARY ROADWAY EASEMENTS NECESSARY TO CONNECT THE REMAINING PORTIONS OF THE RIGHT-OF-WAY FOR TRAFFIC TO FLOW AROUND THAT CLOSURE WITHOUT ANYONE HAVING TO BACKUP OR MAKE ANY HEROIC TRAFFIC MOVES, AND THAT THERE BE A SECURITY GUARD OR A REPRESENTATIVE AT THE SITE WHENEVER THERE IS NO CONSTRUCTION ACTIVITY.

SECONDED BY BOB DUNCKEL.

Discussion followed as to including a temporary easement, and finishing the project within 15 months.

MOTION PASSED UNANIMOUSLY.

ITEM TWO: EXTENSION OF LEASE

Address or General Location: 4330 NE 22 Avenue

Victor Volpi introduced item stating that on March 3, 1994, the City entered into a lease with 615 Beach Oasis Corporation, Inc., to build out a restaurant where the old lifeguard base was on the corner of A-1-A and Seabreeze Boulevard. He said that John Amodeo, owner of the corporation would like your positive recommendation to extend the existing lease for 20 years. He said all other terms and conditions of the existing lease would remain in full force. Victor Volpi stated that for the most part, the Oasis has paid their rent in a timely manner, they have improved the property and it is well maintained. He said the initial term of the lease is for 10 years with options until the year 2014. Victor Volpi introduced John Amodeo.

Bob Dunckel asked for clarification as to the applicant paying rent in a timely manner, for the most part. Victor Volpi explained that restaurants occasionally have a bad month; especially during hurricane season, subsequently they have not always paid their rent on time. Victor Volpi pointed out that the lessee has been at the location for approximately 12 years.

Bob Dunckel said he felt hesitant to vote for an extension before hearing from the CRA and the City Manager's Office. Mr. Amodeo said he would like an extension of the lease and secure his future. Bob Dunckel said he was not against an extension, but would like to have more information before making that decision.

James Cromar asked about the procedure after the PROW Committee made their recommendation. Victor Volpi said the recommendation would go before the City Manager and then the City Commission. Tony Irvine stated his concerns as to extending the current lease for a 20-year period, when the current terms of the current lease are in effect until the year 2014. Tony Irvine said the CRA should have the opportunity to determine any right-of-way or land use issues that the City may not be aware of. Peter Partington asked the applicant if this proposal has been to the CRA advisory board. Mr. Amodeo said no. James Cromar said one of the new City Commissioner's would like the planning staff to incorporate a Beach Master Plan of the CRA areas. James Cromar said one option would be to wait until the plan is complete, and the other would be to incorporate some of today's issues with this lease in the scope of the work. Tony Irvine said he would like to see what the CRA has in mind.

John Amodeo said he would like the Committee to inform him of all of their issues and make that part of the motion at the next meeting. Peter Partington said he felt that the proposal should be deferred and City roadway plans should be looked at.

Discussion followed as to speaking with the CRA engineer to determine if the proposal should go before the advisory board, and Victor Volpi contacting Bob LaMattina and Earl Prizlee to discuss CRA and the roadway issues.

MOTION BY TONY IRVINE TO DEFER UNTIL THE NEXT MEETING.

Tony Irvine reiterated that he did not see the urgency, since the current lease term would be in effect until 2014.

SECONDED BY MARK DARMANIN.

MOTION PASSED UNANIMOUSLY.

ITEM FIVE: **AUTHORIZATION FOR WORK TO BE DONE ON CITY PROPERTY**

Address or General Location: 300 NW 1 Avenue

Victor Volpi introduced item stating that Dawn Bates would like your positive recommendation to allow her company, National Services Industries, Inc., to drill monitoring wells on City owned property (the Old One Stop Shop) to determine the extent of chemical solvent groundwater plum. Victor Volpi introduced Katrina Dawn Bates and Dawn Meyers, attorney for applicant.

Ms. Meyers with Berger Singerman said she is here on behalf of her client and that the project originally started in the 1980's by the former business, Colony Cleaners. Ms. Meyers explained that there was an active remediation for contamination at the proposed site, on site wells were placed at the (old) One Stop Shop, and the wells had been monitored for a period of time and nothing was found. Ms. Meyers stated that during the December 2005 sampling something came up, so the applicant would like to install 5 new wells and resample some of the existing ones. Peter Partington asked how long the wells would have to be monitored for. Ms. Meyers said it would depend on what was found. Ms. Meyers stated that the first sample would be taken to the County, at which time they would direct us as to whether the wells could be abandoned or if periodic resampling would be required.

Peter Partington asked what would happen if the City wanted to redevelop the proposed site or construct a new building. Ms. Meyers explained that the County deals with this type of situation all the time; a request would be made to the County to abandon those wells and they would be relocated outside the City building footprint. Bob Dunckel pointed out that if that were to happen the County would be in control of the destiny of City owned property. Ms. Meyers said the locations chosen were not County dictated, the applicant chose the wells to accommodate the footprint of the existing building, and if necessary would ask for substitute wells outside the new footprint.

Bob Dunckel said the mechanism would be a revocable license, so the City could determine if they no longer wanted the wells, and pointed out that this could put the City at odds with the County. Victor Volpi said he believed that Mike Fayyaz, Assistant City Engineer, was responsible for the existing wells on a City contract, therefore they could be sealed and relocated. Ms. Meyers pointed out that the County would not have control over what happened to the wells, the responsibility would be on the applicant to inform the County that access has been revoked, at which time other options would have to be determined.

Tony Irvine said he would like to see something in writing as to the County's acknowledgement that City has control over the property. Ms. Meyers said the applicant is required to obtain and renew yearly, a Environmental Assessment Remediation License from the County, and the City would not have an obligation from the County. Tom Terrell said if something were to be found in the wells, the applicant would be responsible to remediate City property.

Discussion followed as to Broward County requiring that the applicant be the license holder.

Bob Dunckel said the Revocable License would be with property owner, the old Colony Cleaner. Ms. Meyers said Colony Cleaners sold the property to National Services Industries, Inc., National Linen Services is a subsidiary that sold the property, but maintain the obligation through an indemnification agreement to finish out this assessment and remediation. Ms Meyers said her client is the license holder with the County and the one that is obligated to continue the work.

Discussion followed as to the applicant and the City Attorney's Office having discussions to determine how this should be handled, as indemnifications would be on National Linen Service and the fee simple owner would be National Services Industries, Inc.

Tony Irvine asked about alternate locations for W-4 and W-3 - to allow for a larger interior on the site that is not affected. Ms. Meyers pointed out that the County has tentatively chosen the well locations, and they are not locked in.

Discussion followed as to moving DW-12, W-4, and W-3, and the direction that the environmental plum would travel.

Bob Dunckel said he anticipated that the City future use of the property would start a demolition of the existing City Hall Annex, and asked if that would cause a problem vis-à-vis the monitoring wells. Ms. Meyers said the wells are installed flush to the ground with locking caps, and they have cement caps around them.

MOTION BY BOB DUNCKEL TO RECOMMEND APPROVAL OF AUTHORIZATION FOR WORK TO BE DONE ON CITY PROPERTY AS A REVOCABLE LICENSE, AND THE CITY ATTORNEY'S OFFICE TO NEGOTIATE WHO THE LICENSEE WOULD BE UNDER THE REVOCALBE LICENSE, AND CONDITIONED UPON THE CITY BEING NOTIFIED AT LEAST ONE WEEK IN ADVANCE PRIOR TO THE DRILLING OF THE WELLS, SO ACCOMMODATIONS COULD BE MADE FOR PERMIT PARKING. SECONDED BY TONY IRVINE.

Bob Dunckel asked if the County has already approved the sites. Ms. Meyers said yes.

SECONDED BY TONY IRVINE.

Peter Partington said the applicant would have to obtain a building permit, and must inform Tom Terrell a couple of weeks in advance before the drilling rigs come in to drill.

MOTION PASSED UNANIMOUSLY.

ITEM SIX: **STAGING PERMIT**

Address or General Location: 15 NW 7 Street and 708 NW 1 Avenue

Victor Volpi introduced item stating that Ordinance C-02-13 states that all staging permits should be reviewed by the Property and Right-of-Way Committee for compliance. He said Barbara Howell would like your positive recommendation to allow WaterWorks 2011 (WW 2011) to use 15 NW 7 Street and 708 NW 1 Avenue as a temporary staging area. Victor Volpi introduced Barbara Howell.

Barbara Howell said residents in the neighborhood have indicated that they were against the location for the staging area and have suggested alternative sites, via correspondence. Barbara Howell pointed out that the ordinance permits construction staging in residential neighborhoods and construction managers and inspectors have been working with the contractors to ensure compliance with the ordinance. Barbara Howell explained that the contractor leased the site because the project was ready to start, at which point they came to WW 2011, and that a staging permit cannot be applied for until there is a notice to proceed. Barbara Howell said there was not enough time for WW 2011 to ask for PROW Committee approval before the job started. Barbara Howell stated that the contractor was then asked to fence in the property, abide by the code, and observe dust control and time regulations.

Mr. Sterner, Vice President of the Progressive Village Civic Association said the residents understand the need for a staging area, but are opposed to the process at which the sites were chosen, how they are being used, and are against the idea that a contractor could make a private deal with an absentee landlord. Mr. Sterner said the staging area is two parcels that are not connected, creating the need for two entrances. Mr. Sterner said the neighborhood is old, the streets are narrow, construction workers are littering, a pile of concrete and gravel had been dumped on the swale near a resident's home, and a recent rain storm drain was blocked causing the entire street to flood.

Mr. Sterner asked the Committee to consider the former junkyard, on NW 7 Street and Andrews Avenue, as an alternative site. Mr. Sterner pointed out that there is a concrete wall around the site, and adequate space for the trucks accessing the area. Mr. Sterner explained that most of the residents are having a problem at NW 1 Avenue, due to trucks blocking the road, idling, and honking their horns. Mr. Sterner said the developer stated that he would be willing to consider an alternative location. Mr. Sterner also suggested a site that was in-between the two lots that are currently being used. Mr. Sterner said if the three sites were connected, the gate on 1 Avenue could be closed, trucks could access through the middle lot and leave through the corner lot, focusing all of the traffic on NW 7 Street. Mark Darmanin asked if the owner of the lot in question would be agreeable. Barbara Howell introduced Mario Diaz with the Public Outreach Team, on behalf of WW 2011. Mr. Diaz said the owner would be willing to work with the City, renting the parcel at the same rate per square foot as the lots currently being used, and the contractor had been asked to contact the property owner of the lot to make the necessary arrangements.

Discussion followed as the junkyard not being a suitable site.

James Cromar pointed out that there were still issues pertaining to 1 Avenue. Barbara Howell stated that at the end of 2006, the project would be complete. Tony Irvine asked if a staging area should be negotiated and acquired by the contractor. Bob Dunckel explained that the application requires a statement signed by the property owner, acknowledging that the property owner consents to the temporary use of property.

Tony Irvine said he felt that WW 2011 should be addressing operations control, regardless of what happens at the permit stage. Barbara Howell said she went to the site twice within the last two weeks and did not see any debris; and the construction managers and inspectors have been monitoring the contractor to make sure they abide by the ordinance.

Peter Partington asked who was obligated to bring the application to the City. Bob Dunckel said he believed it would be the City.

Bob Dunckel said he had issues with the debris in the swale, and stated that the ordinance (C-02-93, p. 4, paragraph 4B) reads - the plan includes measures to insure there is minimal disruption to

existing residents, business, and traffic in the area. Bob Dunckel said if approved, the permit should include conditions to protect the residents. Bob Dunckel said the ordinance provides that the approval does not take effect, nor shall a permit be issued any sooner than 30 days after approval and then only if no motion is adopted by the City Commission seeking to review the application or no appeal is filed, as provided in Section 47.26B. Bob Dunckel said this is a Public Works project, it is for the benefit of the entire community, it should be completed in a timely manner, and would probably come in over budget if not approved at this time. Bob Dunckel said this type of proposal should be looked at beforehand and be brought to the City Commission. Bob Dunckel declared that he was inclined to approve what currently exists and hopes to work with the neighbors to see what else could be done to give them the protection they deserve.

Ron Stohl, resident of association pointed out that 7 Street was blocked, and he was unable to leave because of a truck blocking 1 Avenue.

Tony Irvine said he had concerns about the contractor being asked to acquire property with the City or other groups trying to steer the contractor toward a particular property and a particular arrangement. Tom Terrell said he felt notice to proceed should include coming to this Committee to make those arrangements, and that construction should not have been started without getting the necessary permits.

Tom Terrell left the meeting at 12:02 pm.

Barbara Howell said the notice to proceed must be issued before beginning the process of applying for a staging permit and it would take approximately 3-4 months. Bob Dunckel stated that he did not read anything in the ordinance that dictated that the notice to proceed is a condition precedent to going through this process.

Discussion followed as to the typical site plan approval process involved staging permits which would include: P&Z review, PROW review, permitting, and approval by the City Commission.

Mr. Boyd, resident of the association said the community was not informed as to the location of the staging area, and they are against the idea that the contractor could dictate where the staging area would be. Peter Partington apologized on behalf of the City and stated that the proposal should have been reviewed previously and then brought to the City Commission. Peter Partington asked the residents if they would be satisfied if the contractor got permission to use the intermediate site, conditioned upon the City urging WW 2011 to require that the contractor not use 1 Avenue. Mark Darmanin said he was not sure if that could be done. Mr. Boyd asked if the contractor looked at other sites. Mario Diaz said other sites were looked at in the vicinity, and nothing was available.

Discussion followed as to securing the intermediate site, and WW 2011 and the contractor working with the neighborhood on establishing truck routes to and from the staging area.

Bob Dunckel said the Committee should not be approving conditioned upon securing the intermediate site, and the City should allow the current operations to continue.

Norma Wathey, property owner in the vicinity said numerous trucks were blocking 1 Avenue and she could not get through.

Tony Irvine said he could not support a motion that would tell the City to enter into a commercial agreement for property. Bob Dunckel addressed the association stating that if they so desired, they could go before the City Commission. Peter Partington stated he would like to see this Committee

resolve some of the issues presented at today's meeting. Mr. Sterner said the neighborhood residents have met with the property owner of the intermediate parcel and would be agreeable to meet the same conditions including the same lease amount per square foot as the other two parcels. James Cromar said he agreed with Peter Partington as to resolving the current issues verses having to come back in a month.

MOTION BY PETER PARTINGTON TO APPROVE THESE SITES, SUBJECT TO SECURING THE RIGHT TO USE THE INTERMEDIATE SITE WITHIN THIRTY DAYS, AND WATERWORKS 2011 AND THE CITY WORKING WITH THE NEIGHBORHOOD ON ROUTES THAT THE TRUCKS SHOULD USE IN ACCESSING THIS STAGING AREA.

Bob Dunckel said as the motion is made, if they fail to have a written agreement with that property owner within thirty days, then this approval process would come to a halt. Peter Partington said that is correct.

SECONDED BY TONY IRVINE.

James Cromar said what happens if they do not archive it, we start over again. Peter Partington said yes.

Yeas: Peter Partington

Nays: Tony Irvine, Mark Darmanin, Bob Dunckel, Carol Ingold Mordas, and James Cromar

MOTION FAILED.

MOTION AMENDED BY MARK DARMANIN TO APPROVE THESE SITES, AND SUBSTITUTING THE WORDS "STRONGLY URGE" FOR "SUBJECT TO" WATERWORKS 2011 TO SECURE THE INTERMEDIATE SITE WITHIN 30 DAYS, AND FOR WATERWORKS 2011 AND THE CITY TO WORK WITH THE NEIGHBORHOOD ON ROUTES THAT THE TRUCKS SHOULD USE IN ACCESSING THE STAGING AREA.

SECONDED BY BOB DUNCKEL.

Yeas: Tony Irvine, James Cromar, Mark Darmanin, Carol Ingold Mordas, and Bob Dunckel

Nays: Peter Partington

MOTION PASSED UNANIMOUSLY.

MOTION BY BOB DUNCKEL TO STRONGLY URGE WW 2011 TO WORK WITH ANY FUTURE NEIGHBORHOOD STAGING AREAS, PRIOR TO COMING TO THE PROW COMMITTEE. SECONDED BY MARK DARMANIN.

MOTION PASSED UNANIMOUSLY.

Meeting adjourned at 12:25 p.m.